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7 Attorneys for Defendants S. Latham, M. Edwards,  
 8 B. Jain, M. Morgan and M. McLean

9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 MARC DAWSON,

13 Plaintiff,

14 v.  
 15 S. LATHAM, M. EDWARDS, B. JAIN,  
 16 M. MORGAN, M. MCLEAN and A.  
 17 THACKER,

18 Defendants.

12 C 08-0741-JF(PR)

**MOTION FOR ADMINISTRATIVE  
 RELIEF TO PERMIT ADDITIONAL  
 TIME TO FILE MOTION FOR  
 SUMMARY JUDGMENT OR OTHER  
DISPOSITIVE MOTION**

(Local Rule 7-11)

Judge: Hon. Jeremy Fogel

20 **TO PLAINTIFF IN PRO PER:**

21 **PLEASE TAKE NOTICE** that defendants S. Latham, M. Edwards, B. Jain, M. Morgan  
 22 and M. McLean move for additional time to file a motion for summary judgment or other  
 23 dispositive motion. Plaintiff is a *pro per* inmate who claims that an incident of inadequate  
 24 medical care constitutes a violation of the Eighth Amendment. The motion for administrative  
 25 relief is made on the grounds that additional time is needed to obtain, review and analyze the  
 26 plaintiff's medical file, and to prepare dispositive motions on behalf of the five defendants who  
 27 have been served in the case.

This motion is made upon this notice of motion and motion, the accompanying memorandum of points and authorities and declaration of Deputy Attorney General Harry T. Gower, III, and the papers and pleadings on file herein.

Dated: July 9, 2008

Respectfully submitted,

**EDMUND G. BROWN JR.**  
Attorney General of the State of California  
**PAUL T. HAMMERNESS**  
Supervising Deputy Attorney General

/s/ *HARRY T. GOWER, III*

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**HARRY T. GOWER, III**  
Deputy Attorney General

Attorneys for Defendants S. Latham, M. Edwards,  
B. Jain, M. Morgan and M. McLean

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## **PROCEDURAL AND FACTUAL HISTORY**

The plaintiff Marc Dawson, a prisoner at High Desert State Prison in Susanville, was previously incarcerated at Pelican Bay State Prison in Crescent City. He filed his *pro se* civil rights complaint under 42 U.S.C. §1983 on February 6, 2008, complaining of inadequate medical care at Pelican Bay. (Docket No. 3).

On May 8, 2008, the Court issued an Order of Partial Dismissal and Service; Directing Defendants to File Dispositive Motion or Notice Regarding such Motion. (Docket No. 6). In the Order, the Court ordered the United States Marshal to serve Plaintiff's complaint on six individual defendants, and the Court ordered those defendants to file a motion for summary judgment or other dispositive motion no later than 90 days from the date of the order, in other words, no later than August 7, 2008.

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[Motion for Administrative Relief]

*Dawson v. Latham, et al.*  
C 08-0741-JF(PR)

1 The United States Marshal mailed the summons and complaint on the six defendants on  
2 or about May 29, 2008. Defendants forwarded their summonses and complaints to the Office of  
3 the Attorney General on or about June 29, 2008. The undersigned counsel received the case on  
4 July 7, 2008, the Monday after the Fourth of July weekend. (Declaration of Harry T. Gower, III  
5 (“Gower Decl.”), ¶ 2.)

Defendants Latham, Edwards, Jain, Morgan and McLean acknowledged receipt of service on July 8, 2008. (Gower Decl., ¶ 2.) Defendant Thacker has not acknowledged receipt of service.

9 Defendants Latham, Edwards, Jain, Morgan and McLean now seek leave of court for  
10 additional time to file a motion for summary judgment or other dispositive motion. Their  
11 counsel did not receive the case until July 7, 2008, a mere thirty (30) days before the current  
12 deadline for dispositive motions. Defendants have not yet obtained Plaintiff's medical and  
13 dental records. Once those records are received, it will take some time to analyze them,  
14 interview the persons involved, and then prepare a dispositive motion. (Gower Decl., ¶ 3.)

15 Accordingly, Defendants respectfully request that the time for them to file a dispositive  
16 motion be extended an additional 90 days, to November 5, 2008.

## ARGUMENT

18 Defendants request an additional 90-day extension of time from February 6, 2008, up to  
19 and including November 5, 2008, in order to file dispositive motions contemplated by the  
20 Court's Order of Service. This request is made in good faith and not for the purpose of delay.  
21 As stated above, service of the summons and complaint was not attempted until May 29, 2008,  
22 defense counsel was not assigned to the matter until July 7, 2008, and defendants did not  
23 acknowledge receipt of service until July 8, 2008. Plaintiff's records have not yet been obtained.  
24 Once the records are obtained, they will need to be analyzed, then counsel will need time to  
25 prepare a dispositive motion.

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[Motion for Administrative Relief]

*Dawson v. Latham, et al.*  
C 08-0741-JF(PR)

## CONCLUSION

For the foregoing reasons, defendants Latham, Edwards, Jain, Morgan and McLean request an extension of time in which to file a summary judgment or other dispositive motion to November 5, 2008.

Dated: July 9, 2008

Respectfully submitted,

**EDMUND G. BROWN JR.**  
Attorney General of the State of California

PAUL T. HAMMERNES  
Supervising Deputy Attorney General

/s/ *HARRY T. GOWER, III*

---

HARRY T. GOWER, III  
Deputy Attorney General

Attorneys for Defendants S. Latham, M. Edwards,  
B. Jain, M. Morgan and M. McLean

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SE2008402111

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: *Dawson v. Latham, et al.*

No.: **C 08-0741-JF(PR)**

I, Corazon Marcelino, declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 9, 2008, I served the attached **MOTION FOR ADMINISTRATIVE RELIEF TO PERMIT ADDITIONAL TIME TO FILE MOTION FOR SUMMARY JUDGMENT OR OTHER DISPOSITIVE MOTION; DECLARATION OF HARRY T. GOWER, III IN SUPPORT OF MOTION FOR ADMINISTRATIVE RELIEF TO PERMIT ADDITIONAL TIME TO FILE MOTION FOR SUMMARY JUDGMENT OR OTHER DISPOSITIVE MOTION; and [PROPOSED] ORDER GRANTING DEFENDANTS' MOTION FOR EXTENSION OF TIME** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**Marc Charles Dawson  
P-13296  
High Desert State Prison  
P.O. Box 3030  
Susanville, CA 96127-3030**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 9, 2008, at San Francisco, California.

---

Corazon Marcelino

Declarant

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Signature

EDMUND G. BROWN JR.  
Attorney General of the State of California  
PAUL T. HAMMERNESS  
Supervising Deputy Attorney General  
HARRY T. (CHIP) GOWER, III (SBN 170784)  
Deputy Attorney General  
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Attorneys for Defendants S. Latham, M. Edwards,  
B. Jain, M. Morgan and M. McLean

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARC DAWSON.

**Plaintiff.**

S. LATHAM, M. EDWARDS, B. JAIN,  
M. MORGAN, M. MCLEAN and A.  
THACKER.

### Defendants.

C 08-0741-JF(PR)

**DECLARATION OF HARRY T.  
GOWER, III IN SUPPORT OF  
MOTION FOR ADMINISTRATIVE  
RELIEF TO PERMIT ADDITIONAL  
TIME TO FILE MOTION FOR  
SUMMARY JUDGMENT OR OTHER  
DISPOSITIVE MOTION  
(Local Rule 7-11)**

Judge: Hon. Jeremy Fogel

I, HARRY T. GOWER, III, declare:

21       1. I am a Deputy Attorney General for the State of California, licensed to practice  
22 law before all courts in this State. I am the attorney assigned to defend S. Latham, M. Edwards,  
23 B. Jain, M. Morgan and M. McLean in this action. The statements made in this declaration are  
24 made and based upon my personal knowledge, and were I called as a witness I could and would  
25 competently testify about them.

26        2. I received the file in this matter, which includes the defendants' requests for  
27 representation, on July 7, 2008. My review of the file showed that the U.S. Marshals Service  
28 mailed the summonses and complaints to the defendants on or about May 29, 2008. On behalf of

1 defendants S. Latham, M. Edwards, B. Jain, M. Morgan and M. McLean I acknowledged receipt  
2 of summons and complaint on July 8, 2008. On information and belief, defendant Thacker is no  
3 longer employed by the State of California, and is believed by his former employers to now  
4 reside out-of-state.

5       3. Upon receipt of this case file, I immediately caused to be subpoenaed the  
6 plaintiff's prison records. I have not yet received those records. Once the records are received, I  
7 will have them reviewed and analyzed by a medical expert. I will also interview witnesses to  
8 garner information not contained in the records. If the facts warrant, I will then prepare a  
9 dispositive motion (or notify the Court that defendant will not file such a motion).

10       4. On May 8, 2008, this Court ordered that defendants file a dispositive motion  
11 within 90 days of that date, in other words, by August 7, 2008. Because I just recently received  
12 the case, I will not be able to prepare such a motion by August 7, 2008. Therefore, I respectfully  
13 request that the Court give defendants an additional 90 days to prepare a dispositive motion, to  
14 November 5, 2008. This request is made in good faith and not for the purpose of delay.

15        5. I have not obtained a stipulation for an extension of time from the plaintiff  
16 because the time is so short to have this issue decided. Therefore, I am submitting this request  
17 directly to the Court.

18 I declare under penalty of perjury under the laws of the United States that the foregoing is  
19 true and correct.

20 || Executed this 9th day of July, 2008, at San Francisco, California.

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/s/ *HARRY T. GOWER, III*  
HARRY T. GOWER, III

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[Motion for Administrative Relief- Attorney Declaration]

*Dawson v. Latham, et al.*  
C 08-0741-JF(PR)

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: *Dawson v. Latham, et al.*

No.: **C 08-0741-JF(PR)**

I, Corazon Marcelino, declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

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Corazon Marcelino

Declarant

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Signature